

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6678

BILL NUMBER: HB 1458

NOTE PREPARED: May 2, 2003

BILL AMENDED: Apr 25, 2003

SUBJECT: Human Services.

FIRST AUTHOR: Rep. Brown C

FIRST SPONSOR: Sen. Miller

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: (CCR Amended) This bill extends the Select Joint Commission on Medicaid Oversight. It provides for a penalty for housing with services establishments that do not comply with the disclosure requirements and requires the Director of the Division of Disabilities, Aging, and Rehabilitative Services (DDARS) to adopt specified rules. The bill also adds a cross-reference to current law regarding access to certain mental health drugs. It amends the developmental disability Medicaid waiver application process. It also requires the Office of Medicaid Policy and Planning (OMPP) to determine Medicaid waiver eligibility for the developmentally disabled. The bill further establishes a procedure under which restrictions may be placed on mental health drugs under certain circumstances. The bill specifies authority to determine initial placement designations in mental health facilities. The bill also permits a person who has obtained a license to practice medicine outside the United States or Canada to obtain a temporary fellowship permit under certain circumstances until July 1, 2008. The bill allows OMPP to limit access to prescription drugs under the Hoosier Rx program in certain circumstances.

Effective Date: Upon passage; July 1, 2003.

Explanation of State Expenditures: *Select Joint Commission on Medicaid Oversight:* The bill extends the authority for the Select Joint Commission on Medicaid Oversight from December 31, 2003, to December 31, 2008. The Commission is composed of 12 legislators. Currently, legislators receive per diem reimbursement of \$129 (based on the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area) and \$0.345 mileage reimbursement. Legislative Council resolutions in the past have established budgets for interim study committees ranging from \$6,000 to \$9,000 per interim for committees with fewer than 16 members. The Legislative Council is funded with state General Fund dollars.

Housing with Services Establishments: The bill requires the Director of the Division of Disability, Aging, and Rehabilitative Services to adopt rules concerning procedures for the posting of notices at assisted living facilities that advise residents of their rights as residents of assisted living facilities and the manner in which complaints concerning violations may be filed with the Director.

Centralization of Medicaid Developmental Disability Waiver Applications: The bill allows for an individual with developmental disabilities to apply for Medicaid waiver services through the United States mail. It further provides that OMPP will make the final determination of an applicant's eligibility to receive services under a Medicaid waiver. OMPP and DDARS have committed to centralizing the application process as an administrative improvement that can be accomplished within the level of resources available to the Family and Social Services Administration.

Placements in Mental Health Facilities: This bill specifies that the Division of Mental Health is the gatekeeper for commitments to mental health facilities that are made through the courts or the Department of Correction. This provision eliminates the requirement associated with previously passed legislation that would have required a licensed psychiatrist or psychologist to make the placement decision for inmates in DOC.

Temporary Fellowship Permits: Under the bill, a person receiving a temporary fellowship permit must file a notarized affidavit with the Health Professions Service Bureau that has been signed by an Indiana licensed physician (including the signing physician's license number) attesting that the signing physician will monitor the work of the physician holding the temporary medical permit. The provision may increase the administrative staff time of the Bureau to process affidavits for temporary medical permits by a minimal amount.

Medicaid Preferred Drug List (PDL): The bill allows OMPP to add any drug that has been approved by the federal Food and Drug Administration (FDA) to the PDL without the approval of the Drug Utilization Review Board, which is charged with the research, development, and approval of the PDL. The bill also allows the Board to add any FDA-approved drug to the PDL. Current statute allows only the addition of a new single source drug to the list in either of these two circumstances. This provision allows OMPP to bypass the Board approval and allows the Board to bypass the recommendations of the Therapeutics Committee. (The Therapeutics Committee was established to provide the Board with additional clinical expertise for the research and development of the PDL.) This provision appears to have no significant fiscal impact since the language is permissive.

The bill also adds a cross-reference to current law regarding access to mental health drugs and outlines an administrative procedure for intervention that OMPP may use prior to restricting access to mental health drugs in order to prevent fraud, abuse, waste, overutilization, or inappropriate utilization, or to implement a disease management program. The fiscal impact appears to be absorbable within the current level of resources available to the Office.

Prescription Drug Program: The bill specifies that the Office may not implement a Medicaid Pharmacy Plus waiver that limits access to prescription drugs unless it is to prevent fraud, abuse, waste, overutilization of prescription drugs, or inappropriate utilization of prescription drugs. The bill further specifies that access may be limited to the extent that restrictions were in place before March 26, 2002. This provision would preclude the Office of Medicaid Policy and Planning from using program controls similar to those used in the Medicaid Program, such as the Medicaid preferred drug list, for the Hoosier Rx prescription drug program and the Pharmacy Plus Medicaid 1115 Demonstration Waiver application. The waiver application

assumes that the Hoosier Rx program would be subsumed by the waiver prescription drug program. This bill may require OMPP to operate a separate, slightly different pharmacy benefit management program for the Hoosier Rx Program. It is not known if this provision would delay the implementation of the waiver program by requiring an immediate waiver amendment.

Hoosier Rx participants receive a 50% reduction in the amount owed for a prescription at the point of sale; the participant pays the remaining amount due for the prescription. The participants recognize savings as a result of being charged the Medicaid cost of the prescription; any additional savings achieved by the application of cost-saving measures such as the Medicaid preferred drug list are savings recognized immediately by the individual as well as the Hoosier Rx program and the Prescription Drug Waiver Program.

Expenditures in the Medicaid program are shared, with about 62% of program expenditures reimbursed by the federal government and 38% provided by the state.

Explanation of State Revenues: *Housing with Services Establishments:* The bill authorizes the imposition of a daily penalty of not less than \$100, but not more than \$1,000, the total not to exceed \$10,000, for violations of the assisted living notice requirements. Penalties imposed and collected would be dependent upon individual circumstances and administrative actions. Monies collected as a result of this penalty are to be deposited in the state General Fund.

Temporary Fellowship Permits: The Medical Licensing Board, which issues licenses to physicians, charges \$100 for each temporary medical permit issued and \$50 for each temporary medical permit renewal. If the Board treats the fellowship permit similarly and charges the same fee, this bill could increase revenue generated by the fee. The fiscal impact of this bill is dependent on the number of graduates who meet the criteria presented in the bill. Revenue generated from physician licenses and permits is deposited in the State General Fund; \$438,836 were generated in FY 2002.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration, Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Amy Kruzan, Legislative Liaison for the Family and Social Services Administration, (317)-232-1149. Indiana Hoosier Rx Medicaid, Section 1115 Demonstration Waiver Application at: <http://cms.hhs.gov/medicaid/1115/in1115ihrx.asp>

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